



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

Sm

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. |
|-----------------|-------------|----------------------|---------------------|
|-----------------|-------------|----------------------|---------------------|

| | | | |
|------------|----------|------|-----------|
| 09/334,858 | 06/16/99 | MANN | A PD-0294 |
|------------|----------|------|-----------|

023608 QM22/1023
MINIMED INC. - PATENT DEPARTMENT
18000 DEVONSHIRE STREET
NORTHRIDGE CA 91325-1219

EXAMINER

LAM, A

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3763

4

DATE MAILED: 10/23/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/334,858

Applicant(s)

MANN ET AL.

Examiner

Ann Y. Lam

Art Unit

3763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-55 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-55 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claims ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some * c) ☐ None of the CERTIFIED copies of the priority documents have been:
1. ☐ received.
2. ☐ received in Application No. (Series Code / Serial Number) ____.
3. ☐ received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

Attachment(s)

- 14) ☒ Notice of References Cited (PTO-892) 17) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 15) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948) 18) ☐ Notice of Informal Patent Application (PTO-152)
- 16) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2 and 3. 19) ☐ Other:

Art Unit: 3763

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-55 are rejected under 35 U.S.C. 102(b) as being anticipated by Vasko, 5,573,506. Vasko discloses a housing at 16, a receiver at 48., a processor at 53, and an indication device at 36, a memory at 51. Vasko discloses different modes of administering fluid, including a continuous mode, see column 11, lines 66-67, the ability to self-administer a bolus of the fluid, see column 12, line 6, and an intermittent mode, see column 12, line 28. With respect to claim 12, a remote receiver is implied by the disclosure of a wait light 36, see column 8, lines 57-59. With respect to claims 14-20, Vasko discloses infra-red emitter/detector, and other wireless communications ports may be employed, see column 5, lines 49-54, and, as to claims 21-22, an identification code to avoid interference with other devices is implied. As to claim 23, a ²made that permits physician controlled programming to the exclusion of the user is disclosed in column 7, lines 29-30. As to claim 24, a remote commander including a link to a computer is disclosed at column 6, line 66. As to claims 35-43, a bolus estimator, a liquid sensitivity, infusion of insulin, and carbohydrate intake, are disclosed, or at least implied, in column 17, lines 37 and 44-45. As to claims 44-52, a vibration alarm is

Art Unit: 3763

disclosed at 500 and 29, which may include a variety of alarm functions, including low battery alarm, a low volume alarm, etc., see column 16, lines 44-57.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Colman et al., 5,665,065, discloses a programmable infusion pump that includes a glucose sensor or meter for receiving and/or deriving an indication of current blood glucose level so that a medication delivery protocol can be modified as desired.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ann Y. Lam whose telephone number is (703) 306-5560. The examiner can normally be reached on T-F 8-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seidel Richard can be reached on (703)305-3009. The fax phone numbers for the organization where this application or proceeding is assigned are (703)305-3590 for regular communications and (703)306-4520 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0858.

Application/Control Number: 09/334,858

Page 4

Art Unit: 3763

A.L.

October 9, 2000

Sharon Kennedy
Sharon Kennedy
Primary Examiner